

ASSEMBLY BILL

No. 273

**Introduced by Committee on Environmental Safety and Toxic
Materials (Assembly Members Alejo (Chair), Dahle (Vice Chair),
Gonzalez, McCarty, and Ting)**

February 11, 2015

An act to amend Sections 25187.2, 25360, and 25360.1 of the Health and Safety Code, relating to hazardous waste and substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 273, as introduced, Committee on Environmental Safety and Toxic Materials. Hazardous waste and substances: corrective action: liability.

Existing law authorizes the Department of Toxic Substances Control to issue an order under the hazardous waste control laws requiring that a violation be corrected and imposing a civil penalty to specified persons, including a person who has violated various provisions regulating hazardous waste or provisions concerning removal and remedial actions for hazardous substance releases. A person who is issued that order is required to pay for oversight of the removal or remedial action.

Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, authorizes the department to take or oversee removal and remedial actions related to the release of hazardous substances. Existing law authorizes the Attorney General to recover from the liable person, as defined, the costs incurred by the department or a California regional water quality control board in carrying out the act and requires that any monetary obligation owed to the department pursuant to the act or the hazardous waste control laws be subject to a specified rate of interest

earned in the Surplus Money Investment Fund. Existing law authorizes the department to waive the interest if the obligation is satisfied within 60 days of the date of the invoice.

This bill would require a person to pay for oversight of any corrective action required of the person with respect to hazardous waste, and would authorize the recovery by the Attorney General of costs incurred with regard to carrying out or overseeing a removal action, a remedial action, or a corrective action under the act or under the hazardous waste control laws. The bill would require a monetary obligation owed to the department under the act or these laws to be subject to an interest rate of 10% per annum, or, in the case of local governments, 7% per annum. The bill would instead require the department to waive the interest if the obligation is satisfied within 60 days or if the person provides notice to the department disputing the obligation, for a period determined as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25187.2 of the Health and Safety Code
- 2 is amended to read:
- 3 25187.2. ~~If a removal or remedial action order issued pursuant~~
- 4 ~~to Section 25187 to a potentially responsible party requires a person~~
- 5 *is required* to take corrective action with respect to hazardous
- 6 waste, that person shall pay for oversight of the ~~removal or~~
- 7 ~~remedial~~ corrective action. This section does not prohibit the
- 8 department or unified program agency from assessing any other
- 9 penalty or recovering any costs for oversight of a removal or
- 10 remedial action, pursuant to any other provision. Nothing in this
- 11 section limits the due process requirements of Section 25187.
- 12 SEC. 2. Section 25360 of the Health and Safety Code is
- 13 amended to read:
- 14 25360. (a) ~~Any costs~~ *A cost* incurred by the department or
- 15 regional board in carrying out *or overseeing a removal action, a*
- 16 *remedial action, or a corrective action under this chapter or*
- 17 *Chapter 6.5 (commencing with Section 25100)* shall be recoverable
- 18 pursuant to state or federal law by the Attorney General, upon the
- 19 request of the department or regional board, from the liable person
- 20 or persons. The amount of any response action costs that may be

1 recovered pursuant to this section shall include interest on any
2 amount paid. ~~The interest on amounts paid from the state account~~
3 ~~or the Site Remediation Account shall be calculated at the rate of~~
4 ~~return earned on investment in the Surplus Money Investment~~
5 ~~Fund pursuant to Section 16475 of the Government Code.~~

6 (b) A person who is liable for costs incurred at a site shall have
7 the liability reduced by any reimbursements that were paid by that
8 person for that site pursuant to Section 25343.

9 (c) The amount of cost determined pursuant to this section shall
10 be recoverable at the discretion of the department, either in a
11 separate action or by way of intervention as of right in an action
12 for contribution or indemnity. Nothing in this section deprives a
13 party of any defense that the party may have.

14 (d) ~~Money-Moneys~~ recovered by the Attorney General pursuant
15 to this section shall be deposited in the state account.

16 SEC. 3. Section 25360.1 of the Health and Safety Code is
17 amended to read:

18 25360.1. ~~Any~~ *(a) Except as provided in subdivision (b), a*
19 *monetary obligation to the department pursuant to Chapter 6.5*
20 *(commencing with Section 25100) or this chapter shall be subject*
21 *to interest from the date of the demand at the same rate of return*
22 *earned on investment in the Surplus Money Investment Fund*
23 *pursuant to Section 16475 of the Government Code, except the*
24 *department may an interest rate of 10 percent per annum, except*
25 *that, for local governments, the interest rate shall be 7 percent per*
26 *annum.*

27 *(b) The department shall waive the interest described in*
28 *subdivision (a) if the obligation is satisfied within 60 days from*
29 *the date of invoice. If, within 60 days of receiving an invoice, the*
30 *liable person or persons provide written notice to the department*
31 *disputing the monetary obligation specified in the invoice, or a*
32 *portion thereof, the department shall waive the interest until the*
33 *dispute is resolved, or 180 days from the date the department*
34 *received the written notice disputing the obligation, whichever*
35 *occurs first. If the dispute is not resolved within that 180 days,*
36 *then upon the accrual of 180 days, the liable person or persons*
37 *shall pay the obligation specified in the invoice, including interest,*
38 *or seek judicial or other legal relief, as appropriate.*